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August 14, 2020

VIA ECF

Honorable Brian M. Cogan
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Bonnie Shibetti et al. v. Z Restaurant, Diner and Lounge, Inc. et al.
Civil Action No. 18-cv-00856 (BMC)

Dear Judge Cogan:

We represent plaintiffs Bonnie Shibetti and Katrina Puccini in the above-captioned action and are writing, in accordance with Your Honor's August 7, 2020 Memorandum Decision and Order, to respectfully request that the Court sign the enclosed revised notice of a Fair Labor Standards Act collective action. ECF Doc. No. 195, pp. 17-18, fn. 9.

As directed, the parties have modified the limitations period set forth in the notice so that the relevant time-period is now three years prior to the date of Your Honor's August 7, 2020 Memorandum Decision and Order (i.e. August 7, 2017). The parties have also removed all references to the dismissed claims arising under the New York City Human Rights Law and incorporated the Court's October 21, 2020 opt-in deadline. *Id.*

Respectfully submitted,

Jared E. Blumetti

Enclosure:

cc: Vincent Romano (*via ECF*)
Maxwell Rubin (*via ECF*)

**COURT-AUTHORIZED NOTICE OF LAWSUIT
AND OPPORTUNITY TO JOIN**

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

If you were employed as a waiter, waitress, busser, host, hostess (or in any similar tipped position) at the Parkview Diner between August 7, 2017 and the present,

PLEASE READ THIS NOTICE

A COLLECTIVE ACTION LAWSUIT MAY AFFECT YOUR LEGAL RIGHTS.

THIS IS A COURT-AUTHORIZED NOTICE.

THIS IS NOT A SOLICITATION FROM A LAWYER.

WHY DID I GET THIS NOTICE?

You are getting this notice because records show that you work or worked at the Parkview Diner as a waiter, waitress, busser, host, hostess (or in a similar tipped position). A lawsuit has been brought against the owners and managers of the Parkview Diner claiming that they violated various provisions of federal and state wage and hour laws. The Court is trying to determine which employees wish to participate in the case. The Honorable Brian M. Cogan, United States District Court Judge in the Eastern District of New York, is overseeing this case. The lawsuit is known as *Bonnie Shibetti, et al. v. Z Restaurant, Diner and Lounge, Inc., et al.*, 18-cv-00856.

WHAT IS THIS LAWSUIT ABOUT?

Plaintiffs Bonnie Shibetti and Katrina Puccini filed a lawsuit against defendants Z Restaurant, Diner and Lounge, Inc. (“Z Restaurant,” d/b/a the “Parkview Diner”), Adel Fathelbab, Adam Fathelbab, Kamal Fathelbab, and Essam Elbassiony (collectively, “defendants”) claiming, among other things, that defendants unlawfully failed to pay its employees any wages during their training period. Plaintiffs also allege that defendants unlawfully failed to pay its employees minimum wage and overtime at the Parkview Diner. Plaintiffs also allege that defendants unlawfully failed to provide its employees with wages notices, tip credit notices, and wage statements and made illegal deductions from their pay.

WHAT IS A COLLECTIVE ACTION LAWSUIT?

In a collective action lawsuit, one or more persons who have similar claims can bring a lawsuit on behalf of others who have similar claims. All waiters, waitresses, bussers, hosts, hostesses (or similar tipped positions) who decide to participate in the case are conditionally part of the “Collective” and are “Collective Action Members.” The employees who filed this lawsuit – and all of the Collective Action Members – are called the plaintiffs. The corporate entity and individuals that they have sued, Z Restaurant, Adel Fathelbab, Adam Fathelbab, Kamal Fathelbab, and Essam Elbassiony are called the defendants. One Court resolves the issues for everyone who

decides to join the case.

WHY IS THIS LAWSUIT A COLLECTIVE ACTION?

The Court has conditionally authorized this case to proceed as a collective action under 29 U.S.C. § 216(b) of the Fair Labor Standards Act (“FLSA”).

WHAT IS THE DEFENDANTS’ POSITION?

Defendants deny any wrongdoing or liability with respect to any allegation or claim in this lawsuit.

HAS THE COURT DECIDED WHO IS RIGHT?

The Court has not decided whether defendants or plaintiffs are correct. By establishing the Collective and issuing the notice, the Court is not suggesting that plaintiffs will win or lose the case.

WHAT ARE THE PLAINTIFFS ASKING FOR?

With respect to the FLSA claims to which this notice relates, plaintiffs are seeking to recover, among other damages, unpaid wages, unpaid minimum wage, unpaid overtime, liquidated damages, attorneys’ fees, and costs. With respect to their New York Labor Law claims (which are not covered by this notice), plaintiffs are also seeking to recover, among other damages, unpaid wages, unpaid minimum wage, unpaid overtime, statutory damages, and liquidated damages.

CAN I JOIN THIS LAWSUIT?

To be eligible to join this lawsuit, you must have worked as a waiter, waitress, busser, host, hostess (or in a similar tipped position) at the Parkview Diner at any time between August 7, 2017 and the present.

I’M STILL NOT SURE IF I AM INCLUDED?

If you have any questions, you may contact plaintiffs’ attorneys:

LaRocca Hornik Rosen & Greenberg LLP
Patrick McPartland
Jared E. Blumetti
40 Wall Street, 32nd Floor
New York, New York 10005
T: (212) 530-4837, 4831
E: pmcpartland@lhr gb.com
jblumetti@lhr gb.com

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

Ask To Be Included

If you choose to join this lawsuit, you will be bound by any ruling, settlement or judgment, whether favorable or unfavorable. You will also share in any proceeds from a settlement or judgment favorable to the Collective. By joining this lawsuit, you designate the named plaintiffs and their lawyers as your representatives, and to the fullest extent possible, you designate the named plaintiffs to make decisions on your behalf concerning the case, the method and manner of conducting the case, the entering of an agreement with plaintiffs' counsel regarding payment of attorneys' fees and court costs, the approval of settlements, and all other matters pertaining to this lawsuit. Decisions made and agreements entered into by the named plaintiffs will be binding on you if you join the lawsuit. While this suit is pending, you may be asked to provide documents or information relating to your employment, or otherwise participate in written and/or oral discovery proceedings and/or in a trial of this matter.

Do Nothing

By doing nothing, you will not be included in this collective action. If you choose not to join this lawsuit, you will not be affected by any ruling, judgment or settlement rendered in this case, whether favorable or unfavorable. You will not be entitled to share any amounts recovered by plaintiffs as part of this lawsuit. You also will be free to independently retain your own counsel and file your own lawsuit. You should be aware that your federal wage and hour claims are limited by a two or three-year statute of limitations. Delay in joining this action, or proceeding separately, may result in part or all of your claims expiring as a matter of law. If you proceed separately, you may also have to pay your own lawyer.

Can I participate in this lawsuit even though, due to my immigration status, I was an undocumented worker?

Yes. Your immigration status does not affect your entitlement to recover back wages or to participate in this lawsuit.

If I am presently employed at the Parkview Diner can the defendants retaliate against me or fire me if I join the lawsuit?

It is a violation of federal law for defendants to fire, discipline, or in any manner discriminate or retaliate against you for taking part in this case. If you believe that you have been penalized, discriminated against, or disciplined in any way as a result of your receiving this notification, considering whether to join this lawsuit, discuss the lawsuit with others, or actually joining this lawsuit, contact plaintiffs' lawyers right away.

How do I ask the Court to include me in the case?

Enclosed is a form called "**Consent to Join.**" If you choose to join this lawsuit, it is extremely important that you read, sign, and promptly return the **Consent to Join** form to:

LaRocca Hornik Rosen & Greenberg LLP
Patrick McPartland
Jared E. Blumetti
40 Wall Street, 32nd Floor
New York, New York 10005
T: (212) 530 – 4837, 4831
E: pmcpartland@lhr gb.com
jblumetti@lhr gb.com

The signed Consent to Join form must be postmarked, e-mailed, or faxed by October 21, 2020. If your signed Consent to Join Form is not postmarked, e-mailed, or faxed by October 21, 2020, you may not be allowed to participate in the federal law portion of this lawsuit, or share in a monetary recovery on the federal law claims.

Your options are explained in this notice. To ask to be included in the lawsuit, you must act before October 21, 2020.

If money or benefits are obtained from the defendants, and you choose to be included in the case, you will be notified about how to ask for a share.

Do I have a lawyer in this case?

If you choose to join this lawsuit, you will be represented by: Patrick McPartland and Jared Blumetti of LaRocca Hornik Rosen & Greenberg LLP, 40 Wall Street, 32nd Floor, New York, New York 10005.

Should I get my own lawyer?

You do not need to hire you own lawyer because plaintiffs' counsel will be working on your behalf.

You are allowed to hire your own lawyer at your own expense.

If you wish to opt-in but have retained your own attorney to represent you, you may opt-in by having your attorney file your notice of consent to join on or before October 21, 2020 with a notice of his or her appearance on your behalf. These documents must show the case caption and must be filed with the Clerk of Court:

Clerk of Court
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

How will the lawyers be paid?

You will not be required to pay any attorneys' fees or costs out of your own pocket. The named plaintiffs have entered into fee agreements with plaintiffs' attorneys. If you join the lawsuit and plaintiffs do not win, there will be no attorneys' fees or costs chargeable to you. In the event there

is a recovery, the fee agreements entitle plaintiffs' counsel to apply for a portion of any settlement obtained or money judgment entered in favor of all members of the class or the actual value of the time they spend on the case, whichever is greater. The Court may be asked to approve the attorneys' fees. The fees may be part of a settlement obtained or money judgment entered in favor of plaintiffs or may be ordered by the Court to be separately paid by defendants or may be a combination of the two.

You may review the full text of plaintiffs' complaint, defendants' answers, and various other legal documents filed to date in this case by visiting the office of the Clerk of Court for the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201, on any weekday between the hours of 8:30 a.m. and 4:30 p.m., and requesting the file for this case (*Bonnie Shibetti, et al. v. Z Restaurant, Diner and Lounge, Inc., et al.*, 18-cv-00856).

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT, HONORABLE BRIAN M. COGAN. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFFS' CLAIMS OR OF THE DEFENDANTS' DEFENSES.

PLEASE DO NOT CONTACT OR CALL THE COURT OR THE COURT CLERK.

DATED: _____, 2020

HONORABLE _____
U.S.D.J.